

Report and Decision

on

Application by John J. Curtin and Others

for

Authorization and Approval

of

Project under Chapter 121A of the General Laws

of the Commonwealth of Massachusetts

and Chapter 652 of the Acts of 1960

and for

Consent

to Formation of a Corporation

to be Organized under the Provisions

of said Chapter 121A

to be known as "Back Bay Towers, Inc."



BOSTON REDEVELOPMENT AUTHORITY

DRAFT REPORT AND DECISION ON APPLICATION OF JOHN J. CURTIN AND OTHERS FOR CONSENT FOR FORMATION OF BACK BAY TOWERS, INC. AND FOR APPROVAL OF REDEVELOPMENT PROJECT WHITNEY STREET, PARCEL 3.

A. A public hearing was held at 9:30 A. M. on May 23, 1962 in Room 436, State House, Boston, by the Boston Redevelopment Authority (hereinafter sometimes called "the Authority") on an Application (hereinafter called "the Application") filed by John J. Curtin and others (sometimes hereinafter called "the Applicant") the applicant having accepted the provisions of Section 14 of Chapter 652 of the Acts of 1960 for authorization and approval of a redevelopment project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960 and for the consent to the formation and organization of a corporation to be known as "Back Bay Towers, Incorporated" (sometimes hereinafter referred to as "the Corporation") to be organized pursuant to the provisions of said Chapter 121A of the Massachusetts General Laws, as amended, and said Chapter 652 of the Acts of 1960, which corporation shall carry out the undertakings and obligations in a certain agreement for lease between Boston Redevelopment Authority and Leatherbee & Co. and a proposed lease annexed thereto, the same being Exhibit C annexed to the Applicant's petition, and for permissions by the Authority for the Project described in the Application to deviate from zoning and certain other laws, codes, ordinances and regulations in effect in the City of Boston, and for a determination by the Authority that the part of the structures to be used as a garage on the premises comprising the Project Area will not be substantially detrimental to any



buildings within 500 feet of such structures occupied in whole or in part as a public or private school having more than fifty pupils or as a public or private hospital having more than twenty-five beds or as a church, and for a declaration by the Authority that, while the Project involves the construction of units which constitute a single building under the Boston Building Code and Zoning Law, such units constitute separate buildings for the purpose of Chapter 138 of the General Laws of the Commonwealth of Massachusetts.

Due notice of said hearing was given on order of the Authority in accordance with Rule 8 of the Rules and Regulations For Securing Approval Of Projects In Boston Under Chapter 121A Of The General Laws Of The Commonwealth Of Massachusetts As Amended, adopted by the Authority and approved by the Mayor of the City of Boston, and in accordance with the provisions of Section 13 of Chapter 652 of the Acts of 1960, by publication on May 8, 1962 and May 15, 1962 in the Boston Herald and the Boston Daily Record, daily newspapers in general circulation published in Boston, and by mailing, postage prepaid, to certain interested persons all as appears from Exhibit (1) introduced at the hearing.

There were present, in behalf of the Authority, the following persons: The Rt. Rev. Msgr. Francis J. Lally, Chairman, presided. The following members of the Authority were present throughout the hearing: Stephen E. McCloskey, James G. Colbert, John P. Ryan and Kane Simonian, Executive Director and Secretary.



The Project consists of the leasing by Back Bay Towers, Inc. of Lots 3 and 3A on a plan entitled "Boston Redevelopment Authority City of Boston Suffolk County Massachusetts Whitney Redevelopment Area Land Disposition Plan" by Henry F. Bryant & Son, Inc., Engineers, dated August 25, 1960 (excepting therefrom any land taken for the widening of St. Alphonsus Street pursuant to the Redevelopment Plan of the Authority hereinafter referred to), and the construction, operation and maintenance thereon of an apartment house consisting of a 25-story building containing 288 dwelling units plus a janitor's apartment with an appurtenant two-and-one-half-level above grade parking facility providing accommodations for 224 automobiles. The premises on which the Project is to be located are hereinafter referred to as "the Project Area".

In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at the hearing, the exhibits offered in evidence at the hearing and the arguments and statements made at the hearing. The members of the Authority have also viewed the Project Area. The Authority members at the hearing were familiar with the project area in the neighborhood in question, the same having been considered in connection with the hearings on the application of Charlesbank Apartments, Inc. which hearing took place on January 12, 1961, at the State House, Boston. The project area is part of a greater parcel, which has included



in it the parcel upon which the Charlesbank Apartments, Inc. have already commenced construction.

The Project as defined in the Application constitutes a "Project" within the meaning of said Chapter 121A, Section 1, providing, as it does, for the construction, operation and maintenance of a decent, safe and sanitary residential building in part of a larger area which was previously declared to be a substandard and decadent area under Chapter 121 of the General Laws by the Authority in its "Land Assembly and Redevelopment Plan for the Whitney Redevelopment Area" and was taken by the Authority by eminent domain on July 14, 1960 in furtherance of said Redevelopment Plan.

Conditions exist which warrant the carrying out of the Project and in the opinion of the Authority the cost of the Project has been correctly estimated in the Application and the Project will be practicable. As stated above, the Project Area is included within a larger area which the Authority has already found to be substandard and decadent under the provisions of Chapter 121 and has taken by eminent domain. The carrying out of the Project will provide desirable housing accommodations for persons of modest means, of which there is a serious shortage in Boston. The Project is near the Mission Church, a large group of medical and educational institutions, museums, parks and other public facilities, and is adjacent to direct rapid transit MTA service to downtown Boston. The Authority



has received and has in its possession a letter from the Federal Housing Administration stating that the entire Whitney Street Redevelopment Area, of which the Project Area is a part, is eligible for Federal Housing Administration mortgage insurance under Section 220 of the National Housing Act, and the Applicants have received informal approval from the Federal Housing Administration for mortgage financing for the Project. All of the funds which will be required in addition to those obtained from the Federal Housing Administration mortgage financing are available to the Applicants. Pursuant to the contract between the Authority and the Back Bay Towers, Inc., referred to in the Application, a surety company performance bond will be given to the Authority for the amount of the construction cost. Once the Project improvements have been completed, they will themselves constitute security for the obligation to pay the rental due the Authority under the lease which is to be made by the Authority as provided in said contract.

The Project does not conflict with the Master Plan of the City of Boston.

The Project will result in a substantial financial return to the City of Boston inasmuch as under the terms of the lease referred to above there will be payable to the Authority a sizeable annual minimum rent which the Authority, in accordance with its existing Cooperation Agreement with the City of Boston, will remit to the City after deducting certain operating costs and expenses of the Authority.



applicable to the Project for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960. The Authority hereby approves any financing made pursuant to Paragraph 7 of the Application which is insured by the Federal Housing Administration notwithstanding that the amount thereof is in excess of 90% of the estimated cost of the Project.

Exhibit I, filed with and attached to the Application, sets forth the permissions requested for the Project to deviate from zoning and other regulations in effect in the City of Boston. At the hearing, the Applicants abandoned the requests set forth in Ex. I - IV - Subparagraph (b).

1. The applicant's request for permission (Roman Numeral I, subparagraph A - sub 1) to deviate from the Controls set forth in the Redevelopment Plan as to building height is hereby denied and the applicant must comply with the said plan. However, the applicant's request to deviate from the zoning regulations so as to build to a height of two hundred and ten feet (210) from the top of the ground floor slab to the top of the roof slab plus appurtenant roof structures necessary for elevator, mechanical air-conditioning and electric and other facilities related thereto is hereby granted.
2. The applicant's request for permission (Roman Numeral I - sub B - 1 and V(c)) to deviate from the Redevelopment Plan



and Zoning Ordinances and Building Regulations so as to permit the use and operation of Retail Service Stores is hereby denied.

3. The applicant's request (V - Subparagraph d) is hereby denied without prejudice subject to the provisions of Section 13 of Chapter 652 of the Acts of 1960 and Chapter 121A of the Massachusetts General Laws as amended.

Each of the permissions requested in Paragraphs 1A-2 and 2-sub b of said Exhibit I is hereby granted.

With reference to Paragraph 1A2 of said Exhibit I, there would appear to be no reason why a developer should not be able to elect under Section 16(15) of Chapter 488 of the Acts of 1924, as amended (hereinafter called "the Zoning Regulations"); to take frontage on any one of three abutting streets as well as on either of two abutting streets. An election to take such frontage on Tremont Street minimizes the number of additional zoning deviations required for the Project. Insofar as said provision of Section 16(15) might be construed so as to prevent taking the front of the apartment house building on Tremont Street, the Authority hereby permits a deviation from said provision so as to allow the Applicants to elect to take the front of said building on Tremont Street.

The parking facility referred to in the application, exhibits and model presented at the hearing will consist of five split-levels which will be part of



the project. Such facilities are to provide spaces for at least 224 automobiles in accordance with the Redevelopment Plan above referred to (rather than 200 as stated in the Application). There will be two levels below ground grade and two and one-half levels above ground grade to take advantage of the sloping grade of the site with the maximum height being 18 feet above ground grade. The structure will be built entirely of reinforced concrete with architecturally treated open sides above ground grade. The roof will be at two levels of reinforced concrete slabs with parking on one half and landscaping on the other half. The interior will be lighted but will contain no heating system. The design of this parking facility will provide the maximum parking with minimum of ground coverage and the multiple ramp design and traffic control for ingress and egress eliminates the necessity of cross-street traffic in entering or leaving the facility. They will contain an appropriate number of portable fire extinguishers stationed at appropriate intervals as determined by the Fire Department of the City of Boston. Cars will not be repaired or serviced with gas or oil in the parking facilities. The facilities will be appropriately landscaped.

For the reasons set forth in the Application and supporting documents, including the evidence and model presented at the hearing, and in this report, insofar as said parking facilities might be considered to be a building of more than one story, the Authority hereby grants permission for such facilities to deviate from the provisions of Section 16(12) of the Zoning Regulations,



as requested in Paragraph IA2b of Exhibit I.

For the reasons set forth in the Application and supporting documents, including Exhibit I, in the evidence presented at the hearing, and in this report, insofar as the proposed parking facilities might be construed not to be "open-air parking space" within the meaning of Section 4(5) of the Zoning Regulations, the Authority hereby permits deviations from the requirements of said Section 4 and from the requirements of Section 5 of the Zoning Regulations so as to permit the use of the Project Area for said parking facilities, as requested by the Applicants in Paragraph IB of Exhibit I.

For the reasons set forth in the Application and supporting documents, including Exhibit I, and the evidence presented at the hearing, and in this report, insofar as the parking facilities might be construed to be a garage, the Authority hereby grants permission, as requested in Exhibit I, Paragraph IVD, for the facilities, in which no automatic sprinklers are to be installed, to deviate from the provisions of Section 807(f) of the Building Code which impose a requirement of automatic sprinklers and other suitable firefighting apparatus in a garage and from the similar provisions of Rule 6, Rules and Regulations of the Department of Public Safety of the Commonwealth of Massachusetts issued under General Laws, Chapter 148, Section 10. The Authority finds that automatic sprinklers in the parking facilities would not contribute to safety and that the purposes of said Section of the Building Code and of said Rule 6 can and will be satisfied by the rule and regulation, which



the Authority hereby adopts and imposes, in addition to those hereinabove adopted by the Authority and as applicable to the Project for the same period, that the said parking facilities contain an appropriate number of portable fire extinguishers stationed at appropriate intervals as determined by the Fire Department of the City of Boston.

For the reasons set forth in the Application and supporting documents, including Exhibit I, and the evidence presented at the hearing, and in this report, insofar as said parking facilities might be construed to be a garage within the meaning of the Acts of 1913, Chapter 577, as amended, within 500 feet of one or more buildings occupied in whole or in part as a public or private school having more than 50 pupils, or as a public or private hospital having more than 25 beds, or as a church, the Authority hereby determines that such parking facilities or garage will not be substantially detrimental to any such school, hospital or church; and an application may be granted and a permit issued for the erection, maintenance and use of such parking facilities or garage anything in Chapter 316 of the Acts of 1922 to the contrary notwithstanding. The granting of such application and the issuance of such permit is reasonably necessary to the carrying out of the Project.

The Authority hereby adopts and imposes, in addition to those hereinabove set forth and as applicable to the Project for the same period, the following rules and regulations; that commercial auto repair work shall not be carried on at the parking facilities, nor shall cars there be serviced with



gas or oil; and that the parking facilities shall be appropriately landscaped.

The Authority hereby grants the permission requested under Roman Numeral III, Exhibit I, provided that the apartment building which contains no automatic sprinklers, to deviate from the provisions of Section 1008(a) of the Building Code of the City of Boston, which requires the installation of certain automatic sprinklers, the Authority hereby finding that such permission may be granted without substantially derogating from the intent and purposes of such code and being satisfied that a fire detection system consisting of a fire detection head centrally located in each apartment, and, on each Typical Floor and in each of the "Janitors' Closets" and a master panel located in the main entranceway of the building will sufficiently satisfy the purposes for which it is to be used and the purposes for which it is to be used and the purposes of said Section 1008(a); and the Authority hereby adopts and imposes as a rule and regulation, in addition to those previously adopted by the Authority, that the said apartment building contain a fire detection system substantially similar to the system shown on the plan entitled "Preliminary, May 8, 1961, Charlesbank Apartments, Inc., Boston, Massachusetts", and prepared by Hugh Stubbins and Associates, Inc.

Permission requested in Roman Numerals IVa., IVc., Va and Vb of said Exhibit I are hereby granted.

For the reasons set forth in the Application and supporting documents, including said Exhibit I and on the evidence presented at the hearing, and in



this report, the Authority hereby finds that each and every one of the granted permissions is reasonably necessary for the carrying out of the Project and may be granted without substantially derogating from the intent and purposes of the applicable laws, codes, ordinances or regulations, respectively; the Authority is also satisfied, by reliable and generally accepted tests, and by experience in other cities, that the other designs, construction, materials, apparatus, equipment or methods specified in the Application and supporting documents, including Exhibit I, and on the evidence presented at the hearing will sufficiently satisfy the purpose for which it or they are to be used and the purposes of such law, code, ordinance or regulation.

The Authority hereby finds that the Application and the Project conform to and comply with each and every applicable requirement of Chapter 121A of the General Laws, Chapter 652 of the Acts of 1960, and the applicable Rules and Regulations of the Authority, and the Authority, for these reasons and for the reasons set forth in the Application and supporting documents, including Exhibit I, and the evidence presented at the hearing, and in this report, the Authority does hereby approve the Project and consents to the formation of Back Bay Towers, Inc., as requested in the Application, and consents to the filing of the Articles of Organization for such corporation substantially in the form annexed to said Application.